

IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF CALIFORNIA

LANCE IAN OSBAND,

Petitioner,

vs.

ROBERT L. AYERS, JR.,  
Acting Warden of San Quentin  
State Prison,

Respondent.

No. CIV S-97-0152 WBS KJM

DEATH PENALTY CASE

ORDER

The undersigned held a telephonic status conference today. Tivon Schardl and Tim Brosnan participated for petitioner. Ward Campbell and Stephanie Mitchell participated for respondent. After review of the recent filings of both parties, upon hearing the arguments of counsel and good cause appearing therefor, IT IS HEREBY ORDERED AS FOLLOWS:

1. The court finds petitioner has good reason to investigate new information garnered from files of the Sacramento County Bar Association's Indigent Defense Panel. Because that investigation may result in amendments to petitioner's, and respondent's, witness and exhibits lists, there is good cause to continue the evidentiary hearing, currently set for January 22, 2007. Petitioner's December 29, 2006 Request to Modify Scheduling Order is granted.

2. The evidentiary hearing in this matter is continued from January 22 to April 16, 2007 at 9:00 a.m.
3. The pre-evidentiary hearing conference scheduled for January 16, 2007 is vacated.
4. Petitioner has requested expansion of the evidentiary hearing issues regarding claim 5. To permit the court to carefully examine this issue, petitioner shall submit a moving brief, limited to ten pages, by January 26, 2007. By February 9, 2007, respondent shall file a response, also limited to ten pages. By February 16, 2007, petitioner shall file any reply, up to five pages in length. The undersigned will schedule oral argument if necessary.
5. The parties are directed to meet and confer over the next week regarding a schedule for all remaining pre-evidentiary hearing matters. By January 19, 2007, the parties shall submit a joint statement proposing a schedule.

DATED: January 12, 2007.

  
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U.S. MAGISTRATE JUDGE

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